

FIDELITY VIEWPOINTS 04/04/2016

Five ways to protect what's yours

Why it's important to keep your key documents and beneficiaries up to date.

Have you been so focused on building assets that you haven't given much thought to protecting them? Naming beneficiaries, creating a will, and other estate-planning tasks can help preserve what you've accumulated and distribute it to the people and causes that are most important to you.

Yes, it's an uncomfortable topic, but think of it this way: Do you really want someone else making these decisions for you? Let's take a look at some of the important documents you need to have in order should anything unexpected occur.

1. Create a will.

A will is an essential legal document that sets forth your wishes regarding the distribution of your property and the care of any minor children when you die. It documents your wishes and is used to determine the distribution of probate assets in your name when you pass away. It designates an executor, who carries out the provisions of the will.

If you don't have a will, your assets will be disbursed according to state statutes—and who wants that?

Whether you have a will or not, the distribution of your estate assets will generally be subject to a legal process known as probate. This process varies from state to state. Dying intestate (without a will) can further tie up your assets in the costly delay—and public display—of probate. Without a clear estate plan, you may unintentionally trigger legal challenges among family members, because it may be unclear how you really intended your assets to be passed along.

If you have minor children, it's critical that your will designate a guardian for them. If you don't specify who is best suited to look after your children if both you and your spouse die prematurely, the state will. In addition, consider that under some state intestacy laws, if you are married at the time of your death, your current spouse may inherit all your assets. If you have children from a previous marriage, this may not be the result you intended.

2. Choose who'll act on your behalf.

In addition to a will, it is important to consider a power of attorney. A power of attorney appoints an agent to act on your behalf regarding financial and other matters while you are alive. It can take effect immediately or at the time of your incapacity. It typically authorizes someone to act on your behalf with respect to your financial affairs, and is often executed by one spouse for another.

There are several considerations to keep in mind when setting up a power of attorney. Any competent adult can serve as your agent. It can be general or limited; for example, it can apply only to particular assets or accounts that you own. Given that you are giving someone authority to make important decisions on your behalf, it is important that you exercise great care in selecting your agent. A health care proxy names the agent who can make health care decisions for you if you are unable to communicate for yourself. Unlike a durable power of attorney, before someone can act as your health care proxy, you must become incapacitated and be unable to make informed decisions for yourself.

You'll want to be specific about what decisions your health care proxy agent can and cannot make on your behalf. You may also want to draft an advance medical directive, also known as a living will. This expresses your wishes to your agent and doctors when considering the use of life-sustaining procedures.

Consider naming an alternative power of attorney and alternative health care proxy in case the person you've initially named is unable to serve on your behalf.

3. Name beneficiaries on financial accounts.

Designating a beneficiary for investment accounts and insurance policies can be as important as writing a will. These decisions are critical but not complex. Assets in your retirement accounts pass directly to the beneficiaries you've designated with your account custodian, trustee, or plan administrator. Furthermore, your beneficiary designations generally supersede any accommodation you have made in your will for your retirement account. Remember to name beneficiaries on all retirement accounts, such as 401(k)s accounts and IRAs. In many instances, having beneficiaries designated on an account allows the account to pass outside probate, enabling your beneficiaries to avoid the time and expense of the probate process. As with all accounts, estate taxes may still apply. Be sure to consult your tax advisor.

Under IRS rules, required distributions from an inherited IRA are generally based on the age of the beneficiary, not the age of the original IRA owner. So if your beneficiary is younger than you, these rules can minimize the taxable amount that must be withdrawn each year after your death.

Employer-sponsored retirement plans. If you are married, keep in mind that some employer-sponsored retirement plans automatically designate your spouse as the beneficiary unless you name another beneficiary and your spouse has consented in writing. You should check with your company to understand their policy on beneficiary designations.

Nonretirement accounts. Designating beneficiaries on a nonretirement account, such as a brokerage account, may establish a “transfer-on-death” (TOD) registration for the account. For an individual account, a TOD registration allows ownership of the account to be transferred to a designated beneficiary upon your death.

4. Keep everything up to date.

Even the best plan isn’t effective if it doesn’t keep pace with your life. Consider setting aside a special time each year—around tax time, for example—to review not only your paperwork but any life events that have occurred. Moving, having children or grandchildren, or losing a loved one can have a big impact on your plan overall.

5. Ask for help.

It’s important to know the difference between what you can do on your own and when you need professional help in preparing for the unexpected. Do-it-yourself estate planning is risky, so it makes sense to ask an attorney to draw up legal documents such as your will, power of attorney, and health care proxy. An experienced professional can actually save you money and spare you headaches.

Learn more.

Call **888.766.6813** to speak with a Fidelity representative today.

The tax and estate-planning information contained herein is general in nature, is provided for informational purposes only, and should not be construed as legal or tax advice. Fidelity does not provide legal or tax advice. Fidelity cannot guarantee that such information is accurate, complete, or timely. Laws of a particular state or laws that may be applicable to a particular situation may have an impact on the applicability, accuracy, or completeness of such information. Federal and state laws and regulations are complex and are subject to change. Changes in such laws and regulations may have a material impact on pre- and/or after-tax investment results. Fidelity makes no warranties with regard to such information or results obtained by its use. Fidelity disclaims any liability arising out of your use of, or any tax position taken in reliance on, such information. Always consult an attorney or tax professional regarding your specific legal or tax situation.

